

House File 640 - Reprinted

HOUSE FILE 640

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 597)

(SUCCESSOR TO HF 376)

(As Amended and Passed by the House May 2, 2013)

A BILL FOR

1 An Act relating to liquids which are flammable or combustible,
2 by providing for the storage, marketing, and distribution of
3 such liquids, providing for the marketing and distribution
4 of liquids classified as motor fuel, including a
5 conventional blendstock for oxygenate blending, and blended
6 and unblended gasoline and diesel fuel, providing for
7 liability, extending the period for determining the rates
8 of the motor fuel tax based on calculating the distribution
9 of ethanol blended gasoline and other motor fuel, including
10 fees and penalties, and including effective date provisions.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
LEGISLATIVE INTENT

Section 1. USE OF RENEWABLE FUELS. The general assembly finds and declares all of the following:

1. This state and the United States have demonstrated a commitment to a long term policy of increasing the production, distribution, and use of clean renewable fuels according to a renewable fuel standard, sometimes referred to as "RFS2", by encouraging the increased domestic production and utilization of renewable fuels, which includes total renewable biofuels such as ethanol, advanced biofuels, cellulosic and agricultural waste-based biofuels, and biomass-based biodiesel.

2. Renewable fuels have become increasingly important to this state and its economy including by providing jobs and strengthening rural communities, and have proven to be economically viable for consumers in this state and throughout the midwest.

DIVISION II
MOTOR FUEL MARKETING

Sec. 2. Section 214A.1, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. "*Distributor*" means the same as defined in section 452A.2.

NEW SUBSECTION. 12A. "*Marketer*" means a dealer, distributor, nonrefiner biofuel manufacturer, or supplier.

NEW SUBSECTION. 16A. "*Nonrefiner biofuel manufacturer*" means the same as defined in section 452A.2.

NEW SUBSECTION. 18A. "*Pipeline company*" means the same as defined in section 479B.2.

NEW SUBSECTION. 18B. "*Refiner*" means a person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

NEW SUBSECTION. 23A. "*Supplier*" means the same as defined in section 452A.2.

NEW SUBSECTION. 23B. "*Terminal*" means the same as defined

1 in section 452A.2.

2 NEW SUBSECTION. 23C. *“Terminal operator”* means the same as
3 defined in section 452A.2.

4 NEW SUBSECTION. 23D. *“Terminal owner”* means the same as
5 defined in section 452A.2.

6 Sec. 3. Section 214A.20, subsection 1, unnumbered paragraph
7 1, Code 2013, is amended to read as follows:

8 A retail dealer or other marketer, pipeline company,
9 refiner, terminal operator, or terminal owner is not liable for
10 damages caused by the use of incompatible motor fuel dispensed
11 at the retail dealer’s retail motor fuel site, if all of the
12 following applies:

13 Sec. 4. Section 323.1, Code 2013, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 01. *“Blender pump”* means a motor fuel
16 blender pump as defined in section 214.1 that dispenses motor
17 fuel or special fuel in a manner required pursuant to chapters
18 214 and 214A.

19 NEW SUBSECTION. 7A. *“Motor fuel pump”* means the same as
20 defined in section 214.1 that dispenses motor fuel or special
21 fuel in a manner that complies with standards set forth in
22 chapters 214 and 214A.

23 NEW SUBSECTION. 7B. *“Refiner”* means a person engaged in the
24 refining of crude oil to produce motor fuel or special fuel,
25 and includes any affiliate of such person.

26 NEW SUBSECTION. 7C. *“Renewable fuel”* means the same as
27 defined in section 214A.1 that complies with standards set
28 forth in section 214A.2.

29 NEW SUBSECTION. 11. *“Storage tank”* means a motor fuel
30 storage tank as defined in section 214.1, including an
31 underground storage tank subject to regulation under chapter
32 455G.

33 NEW SUBSECTION. 12. *“Supplier”* means the same as defined
34 in section 452A.2.

35 Sec. 5. NEW SECTION. 323.4A **Use of renewable fuel.**

1 1. A supply agreement or other document executed by a
2 distributor or dealer and a refiner or supplier on or after
3 the effective date of this Act shall not contain a provision
4 restricting the distributor or dealer from doing any of the
5 following:

6 a. Installing, converting, or operating a storage tank, a
7 motor fuel pump, or a blender pump located on the distributor's
8 or dealer's retail premises for use in storing or dispensing
9 renewable fuel. However, this paragraph does not apply to a
10 dealer whose retail premises are leased from the distributor
11 or franchiser.

12 b. Using a motor fuel pump to dispense ethanol blended
13 gasoline, including gasoline with a specified blend or a range
14 of blends under chapter 214A, if the motor fuel pump meets all
15 applicable federal and state requirements and is approved as
16 required by the state fire marshal for dispensing the specified
17 blend or range of blends, including as provided in section
18 455G.31.

19 c. Purchasing, selling, or dispensing motor fuel or special
20 fuel that is a renewable fuel from a source other than the
21 refiner or supplier if the refiner or supplier does not provide
22 motor fuel or special fuel that is a renewable fuel for sale by
23 the distributor or dealer.

24 2. This section does not apply to any activity that
25 constitutes mislabeling, misbranding, willful adulteration, or
26 other trademark violation by the dealer.

27 Sec. 6. Section 452A.2, Code 2013, is amended by adding the
28 following new subsections:

29 NEW SUBSECTION. 6A. "*Conventional blendstock for oxygenate*
30 *blending*" means one or more motor fuel components intended for
31 blending with an oxygenate or oxygenates to produce gasoline.

32 NEW SUBSECTION. 9A. "*Diesel fuel*" or "*diesel*" means diesel
33 fuel as defined in section 214A.1.

34 NEW SUBSECTION. 28A. "*Nonrefiner biofuel manufacturer*"
35 means an entity that produces, manufactures, or refines

1 biofuel and does not directly or through a related entity
2 refine, blend, import, or produce a conventional blendstock for
3 oxygenate blending, gasoline, or diesel fuel.

4 NEW SUBSECTION. 30A. "*Refiner*" means a person engaged in
5 the refining of crude oil to produce motor fuel or special
6 fuel, and includes any affiliate of such person.

7 NEW SUBSECTION. 37A. "*Terminal owner*" means a person who
8 holds a legal interest or equitable interest in a terminal.

9 Sec. 7. NEW SECTION. **452A.6A Right of distributors and**
10 **dealers to blend conventional blendstock for oxygenate blending,**
11 **gasoline, or diesel fuel using a biofuel.**

12 1. *a.* A dealer or distributor may blend a conventional
13 blendstock for oxygenate blending, gasoline, or diesel fuel
14 using the appropriate biofuel, or sell unblended or blended
15 gasoline or diesel fuel on any premises in this state.

16 *b.* Paragraph "*a*" does not apply to the extent that the use
17 of the premises is restricted by federal, state, or local law.

18 2. A refiner, supplier, terminal operator, or terminal
19 owner who in the ordinary course of business sells or
20 transports a conventional blendstock for oxygenate blending,
21 gasoline unblended or blended with a biofuel, or diesel fuel
22 unblended or blended with a biofuel shall not refuse to sell
23 or transport to a distributor or dealer any conventional
24 blendstock for oxygenate blending, unblended gasoline, or
25 unblended diesel fuel that is at the terminal, based on the
26 distributor's or dealer's intent to use the conventional
27 blendstock for oxygenate blending, or blend the gasoline or
28 diesel fuel with a biofuel.

29 3. This section shall not be construed to do any of the
30 following:

31 *a.* Prohibit a distributor or dealer from purchasing,
32 selling or transporting a conventional blendstock for oxygenate
33 blending, gasoline that has not been blended with a biofuel, or
34 diesel fuel that has not been blended with a biofuel.

35 *b.* Affect the blender's license requirements under section

1 452A.6.

2 *c.* Prohibit a dealer or distributor from leaving a terminal
3 with a conventional blendstock for oxygenate blending, gasoline
4 that has not been blended with a biofuel, or diesel fuel that
5 has not been blended with a biofuel.

6 *d.* Require a nonrefiner biofuel manufacturer to offer or
7 sell a conventional blendstock for oxygenate blending, gasoline
8 that has not been blended with a biofuel, or diesel fuel that
9 has not been blended with a biofuel.

10 4. A refiner, supplier, terminal operator, or terminal
11 owner who violates this section is subject to a civil penalty
12 of not more than ten thousand dollars per violation. Each day
13 that a violation continues is deemed a separate offense.

14 DIVISION III

15 STORAGE TANKS

16 Sec. 8. Section 101.21, subsection 1, paragraphs a through
17 c, Code 2013, are amended to read as follows:

18 *a.* ~~Aboveground tanks of~~ An aboveground tank which complies
19 with any of the following:

20 (1) Has one thousand one hundred gallons or less capacity.

21 (2) Stores flammable liquids on a farm located outside the
22 limits of a city, if the aboveground tank has two thousand
23 gallons or less capacity.

24 (3) Stores combustible liquids on a farm located outside
25 the limits of a city, if the aboveground tank has five thousand
26 gallons or less capacity.

27 *b.* ~~Tanks~~ A tank used for storing heating oil for consumptive
28 use on the premises where stored.

29 *c.* ~~Underground~~ An underground storage ~~tanks~~ tank as defined
30 by section 455B.471.

31 Sec. 9. Section 101.21, Code 2013, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 1A. *a.* "Farm" means land and associated
34 improvements used to produce agricultural commodities, if at
35 least one thousand dollars is annually generated from the sale

1 of the agricultural commodities.

2 *b.* As used in paragraph "a", "commodities" means crops
3 as defined in section 202.1 or animals as defined in section
4 459.102.

5 Sec. 10. Section 101.22, subsections 4 through 8, Code 2013,
6 are amended to read as follows:

7 4. The registration notice of the owner or operator to
8 the state fire marshal under subsections 1 through 3 shall
9 be accompanied by an annual fee of ~~ten~~ twenty dollars for
10 each tank included in the notice. All moneys collected
11 shall be retained by the department of public safety and are
12 appropriated for the use of the state fire marshal. The annual
13 renewal fee applies to all owners or operators who file a
14 registration notice with the state fire marshal pursuant to
15 subsections 1 through 3.

16 ~~5. A person who deposits flammable or combustible liquid
17 in an aboveground flammable or combustible liquid storage
18 tank shall notify the owner or operator in writing of the
19 notification requirements of this section.~~

20 ~~6.~~ A person who sells or constructs a tank intended to be
21 used as an aboveground storage tank shall notify the purchaser
22 of the tank in writing of the notification requirements of this
23 section applicable to the purchaser.

24 ~~7.~~ 6. ~~It is unlawful to deposit flammable or combustible~~
25 ~~liquid in~~ An owner or operator shall register an aboveground
26 flammable or combustible liquid storage tank ~~which has not been~~
27 ~~registered~~ pursuant to subsections 1 through 4.

28 ~~8.~~ 7. The state fire marshal shall furnish the owner or
29 operator of an aboveground flammable or combustible liquid
30 storage tank with a registration tag for each aboveground
31 flammable or combustible liquid storage tank registered with
32 the state fire marshal.

33 ~~a.~~ The owner or operator shall affix the tag to the fill
34 pipe of each registered aboveground flammable or combustible
35 liquid storage tank.

1 ~~b. A person who conveys or deposits flammable or combustible~~
2 ~~liquid shall inspect the aboveground flammable or combustible~~
3 ~~liquid storage tank to determine the existence or absence of~~
4 ~~the registration tag. If a registration tag is not affixed to~~
5 ~~the aboveground flammable or combustible liquid storage tank~~
6 ~~fill pipe, the person conveying or depositing the flammable or~~
7 ~~combustible liquid may deposit the flammable or combustible~~
8 ~~liquid in the unregistered tank. However, only one deposit~~
9 ~~is allowed into the unregistered tank, the person making the~~
10 ~~deposit shall provide the owner or operator of the tank with~~
11 ~~another notice as required by subsection 5, and the person~~
12 ~~shall provide the owner or operator with an aboveground~~
13 ~~flammable or combustible liquid storage tank registration form.~~

14 ~~c. It is the owner or operator's duty to comply with~~
15 ~~registration requirements.~~

16 8. A late registration penalty of twenty-five dollars
17 is imposed in addition to the registration fee for a tank
18 registered after the required date.

19 DIVISION IV

20 FUEL TAX

21 Sec. 11. Section 452A.3, subsection 1, unnumbered paragraph
22 1, Code 2013, is amended to read as follows:

23 Except as otherwise provided in this section and in this
24 division, until June 30, ~~2013~~ 2014, this subsection shall apply
25 to the excise tax imposed on each gallon of motor fuel used for
26 any purpose for the privilege of operating motor vehicles in
27 this state.

28 Sec. 12. Section 452A.3, subsection 1A, Code 2013, is
29 amended to read as follows:

30 1A. Except as otherwise provided in this section and in this
31 division, after June 30, ~~2013~~ 2014, an excise tax of twenty
32 cents is imposed on each gallon of motor fuel used for any
33 purpose for the privilege of operating motor vehicles in this
34 state.

35 Sec. 13. EFFECTIVE UPON ENACTMENT. This division of this

H.F. 640

1 Act, being deemed of immediate importance, takes effect upon
2 enactment.